



Atty. Dkt. No. 041673-2115

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tuszynski, Mark H.
Title: METHODS FOR THERAPY OF
NEURODEGENERATIVE
DISEASE OF THE BRAIN
Appl. No.: 10/748,337
Filing Date: 12/29/2003
Examiner: Louis D. Lieto
Art Unit: 1632

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| <p>CERTIFICATE OF MAILING I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on the date below.</p> <p><u>Michelle Sympson</u> (Printed Name)</p> <p><u>Michelle Sympson</u> (Signature)</p> <p><u>November 4, 2004</u> (Date of Deposit)</p> |
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RESPONSE TO OFFICE ACTION (RESTRICTION REQUIREMENT)

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is being submitted in response to the Office Action mailed herein on September 15, 2004, with a one month period for response. Extension of said period for response to November 15, 2004 is hereby requested, the fee for which is submitted herewith.

Any additional fees which may be required regarding the submission of this response in this application under 37 CFR §§ 1.16-1.17 may be charged to, or any overpayment credited to, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

The Examiner has required that Applicant provisionally elect a species of neurotrophin from the broad range of neurotrophins disclosed as being useful in the invention, and a species of expression vector from the broad range of expression vectors disclosed as being useful in the



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neurotrophin for initial examination, and adeno-associated virus (AAV) vector as the species of expression vector for initial examination.

However, with respect to the appropriateness of the requirement for restriction, Applicant respectfully draws the Examiner's attention to the history of prosecution of claims of comparable scope in the parent application, Serial Number 09/621,074. No requirement for an election between or among species of the species of neurotrophins or expression vectors encompassed by the scope of the parent claims was deemed necessary or made. Further, claims of similar scope in co-pending application Serial Number 10/032,952 (another continuation application based on the 09/621,074 application) were also examined through allowance without a requirement for restriction between or among the neurotrophin and expression vector species encompassed being made.

As such, the interests of consistent and compact prosecution are best served in the present application by examining its claims under the same circumstances; i.e., without restriction between or among species. For that reason, Applicant respectfully traverses the present restriction requirement.

Generic claims may later be allowed that encompass more than one such species. As such, in addition to being made subject to traverse, the election made herein is also without prejudice to the granting of claims which encompass more than the single species elected for examination purposes.

On receipt of this response to the outstanding restriction requirement, favorable action on the merits of the claims is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stacy L. Taylor". The signature is fluid and cursive, with the first name "Stacy" and last name "Taylor" clearly distinguishable.

Date November 4, 2004

By _____

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